

Message Text

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ACTION STR-07

INFO OCT-01 IO-13 ISO-00 STRE-00 OIC-02 AF-10 ARA-10
EA-10 EUR-12 NEA-10 AGRE-00 CEA-01 CIAE-00
COME-00 DODE-00 EB-08 FRB-03 H-01 INR-10 INT-05
L-03 LAB-04 NSAE-00 NSC-05 PA-01 CTME-00 AID-05
SS-15 ITC-01 TRSE-00 USIA-06 SP-02 SOE-02 OMB-01
DOE-11 OES-07 /166 W

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P 171642Z FEB 78

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TO SECSTATE WASHDC PRIORITY 6127

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USMTN

STR FOR ACTION

STR PASS CODEL

E.O. 11652: N/A

TAGS: MTN, ETRD

SUBJECT: GOVERNMENT PROCUREMENT - S&D - MTN DEL INPUT

REF: (A) 77 STATE 282539; (B) GENEVA 2262

1. SUMMARY: INFORMAL MEETING BETWEEN KEY DEVELOPED
AND DEVELOPING COUNTRIES TO DISCUSS S&D AND GOVERN-
MENT PROCUREMENT RE-EMPHASIZED NEED FOR EARLY SUB-
STANTIVE U.S. POSITION ON THIS SUBJECT. WHILE MEETING
PRODUCED NO SURPRISES, THE TIME APPEARS RIGHT FOR U.S.
TO TAKE ACTION TOWARD DEVELOPING A S&D PACKAGE FOR
THE GOVERNMENT PROCUREMENT CODE. THIS TELEGRAM OFFERS
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U.S. MTN DEL SUGGESTIONS. END SUMMARY.

2. INFORMAL PLURILATERAL GOVERNMENT PROCUREMENT (GP)
DRAFTING GROUP MET FEBRUARY 15 WITH REPRESENTATIVES
OF DEVELOPING COUNTRIES (INDIA, MEXICO, BRAZIL,
ANDEAN, ASEAN, YUGOSLAVIA, NIGERIA, SENEGAL) TO
DISCUSS SPECIAL AND DIFFERENTIAL TREATMENT PROVISIONS

OF DRAFT GOVERNMENT PROCUREMENT CODE (MTN/NTM/W/133). DISCUSSION REAFFIRMED POSITIONS ALREADY EXPRESSED BY VARIOUS DEVELOPING COUNTRIES WITH MOST SUPPORTING INDIAN PROPOSAL (SECOND PROPOSAL IN DRAFT). THE MEETING ENDED INCONCLUSIVELY, BUT WITH A PROMISE TO GET TOGETHER IN MID-MARCH TO CONTINUE DISCUSSIONS ON THIS SUBJECT. CONSIDERING THE ACCELERATED TIME TABLE OF THE MTN WE SHOULD BE IN A POSITION TO REACH THE OUTLINES OF A TENTATIVE AGREEMENT ON S&D SO THE ISSUE DOES NOT LAG BEHIND OTHER KEY ELEMENTS OF THE CODE. ACCORDINGLY, THE TIME IS CLEARLY RIPE FOR US TO TAKE LEADERSHIP ROLE IN RESOLVING THIS ISSUE.

3. THE GATT SECRETARIAT DRAFT GP CODE CONTAINS A WIDE RANGE OF OPTIONS ON S&D PROVISIONS: (A) THE MOST EXTREME POSITION, PROPOSAL 3 BY NIGERIA, WAS SUPPORTED BY NO ONE BUT NIGERIA, (B) THE MOST ELABORATE POSITION, PROPOSAL 2 BY INDIA, WAS SUPPORTED BY MOST LDC'S, AND (C) THE LEAST FORTHCOMING POSITION, PROPOSAL 4 BY THE EC, WAS LEAST ACCEPTED BY LDC'S. THE NORDIC PROPOSAL (PROPOSAL 1) IS, TO SOME EXTENT, A COMPROMISE POSITION SIMILAR TO ONE THEY RECENTLY HAVE CIRCULATED IN CONJUNCTION WITH S&D IN THE DRAFT STANDARDS CODE. WE BELIEVE THAT THIS PROPOSAL IS A GOOD "INSTITUTIONAL" FORM OF S&D, INCORPORATING A GRADUATION CONCEPT, FOR NOT ONLY THE STANDARDS CODE (AND WE CONCUR WITH WASHINGTON LIMITED OFFICIAL USE

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TON ACCEPTANCE OF NORDIC PROPOSAL WITH CERTAIN CAVEATS, REF (A)) BUT ALSO THE GP CODE. FURTHERMORE, IF THE NORDICS HAVE TESTED THE WATER CORRECTLY AND THEIR PROPOSAL DOES HAVE A CHANCE FOR ACCEPTABILITY (REF (B)), WE WILL HAVE EXPEDITED OUR WORK AND GONE FAR TO MEET S&D DESIRES.

4. IN ADDITION TO THE GENERAL PROPOSAL OFFERED BY THE NORDICS, WE SHOULD BE FORTHCOMING ON ELEMENTS OF S&D WHICH WOULD BE UNIQUE TO THE GP CODE YET NOT WEAKEN ITS FUNDAMENTAL OBJECTIVES. BASED ON DISCUSSIONS WITH OTHER DELS AND FROM INTERNAL CONSIDERATION, MTN DEL RECOMMENDS A S&D PACKAGE ALONG THE FOLLOWING LINES: (A) FOR LDC SIGNATORIES TO GP CODE: (1) LDC'S WOULD BE ALLOWED TO DISCRIMINATE IN FAVOR OF DOMESTIC FIRMS BUT ONLY BY A STATED PERCENTAGE PREFERENCE THAT WOULD BE PHASED OUT OVER AN AGREED PERIOD OF TIME; (2) LDC'S COULD INITIALLY PUT FORWARD MORE LIMITED ENTITY COVERAGE THAN DEVELOPED COUNTRIES (BUT MUST CONTRIBUTE SOMETHING TO COVERAGE); (3) DEVELOPED COUNTRIES WOULD PROVIDE AN INFORMATION CENTER AND GIVE TECHNICAL ASSISTANCE TO LDC'S IN ESTABLISHING THEIR

PROCUREMENT SYSTEMS AND IN LEARNING TO MEET BID SPECIFICATIONS; AND (4) LDC'S COULD ESTABLISH A HIGHER THRESHOLD THAN DEVELOPED COUNTRIES TO INCREASE THE ABILITY OF DOMESTIC FIRMS TO COMPETE WITH IMPORTS AND TO LIMIT THE ADMINISTRATIVE BURDEN THAT WILL RESULT FROM CODE ADHERENCE. (THIS SPECIAL THRESHOLD ALSO COULD BE TIED TO A GRADUATION CONCEPT IN WHICH IT EVENTUALLY WOULD BE PHASED DOWN TO THE INTERNATIONALLY ACCEPTED THRESHOLD.) (B) FOR LEAST DEVELOPED COUNTRIES NOT SIGNATORIES TO THE CODE, MTN DEL RECOMMENDS SUPPORT OF EC PROPOSAL (FOURTH PROPOSAL IN GP DRAFT). IN OUR VIEW, THIS PACKAGE REPRESENTS THE MOST WE COULD ACCEPT FOR S&D IN THE GP CODE. MTN DEL BELIEVES WE SHOULD NOT ACCEPT LDC PROPOSALS FOR DISCRIMINATION AMONG FOREIGN SUPPLIERS IN LDC DOMESTIC MARKETS LIMITED OFFICIAL USE

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OR OTHER PROPOSALS WHICH WEAKEN THE OTHER FUNDAMENTAL OBJECTIVES OF THE CODE. AT THIS TIME, WE WOULD NOT ENVIS-

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AGE TABLING ALL THESE ELEMENTS AS A COMPLETE PROPOSAL BUT WOULD LIKE TO BE IN A POSITION TO DRAW UPON THESE ELEMENTS AS NEEDED TO EFFECT ACCEPTABLE S&D PACKAGE. SUCH AN APPROACH WOULD PROVIDE NEGOTIATING FLEXIBILITY WITH THE POSSIBILITY OF MINIMIZING THE DEROGATIONS FOR S&D.

5. MTN DEL REALIZES THE ABOVE IS A RATHER FORTHCOMING S&D PACKAGE. WE BELIEVE IT WILL BE NECESSARY TO ADOPT SUCH AN APPROACH IF WE ARE TO HAVE PARTICIPATION OF MAJOR DEVELOPING COUNTRIES. MTN DEL PLANS TO CONTINUE TO STRESS THE MFN BENEFITS OF THE CODE TO LDC'S. IT WILL BE NECESSARY TO EXPLORE INFORMALLY THE ACCEPTABILITY OF OUR ENVISIONED PACKAGE AND TO DETERMINE WHAT STEPS TO TAKE NEXT. IN ORDER TO MEET THE JULY DEADLINE, HOW-LIMITED OFFICIAL USE

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EVER, WE WILL HAVE TO MOVE QUICKLY NOT ONLY IN THE S&D BUT IN THE OTHER PROVISIONS OF THE CODE.

6. MTN DEL MUCH APPRECIATES PROMPT RECEIPT OF TPSC 78-13. WITHOUT THIS POSITION PAPER, LITTLE PROGRESS WOULD HAVE BEEN MADE IN THIS MEETING.

7. DRAFTED BY SHELLEY/NEWKIRK. MCDONALD

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